

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35813

STATE OF IDAHO,)	2010 Unpublished Opinion No. 386
)	
Plaintiff-Respondent,)	Filed: March 16, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
BRIAN LYLE BARKER,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Thomas F. Neville, District Judge.

Order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Eric D. Fredericksen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge, GUTIERREZ, Judge
and MELANSON, Judge

PER CURIAM

Brian Lyle Barker was convicted of trafficking in methamphetamine, Idaho Code § 37-2732B(a)(4). The district court imposed a unified twenty-year sentence with ten years determinate. Barker filed an Idaho Criminal Rule 35 motion, which the district court denied. Barker appeals from the denial of his Rule 35 motion.

Barker's appeal is timely from the order denying his Rule 35 motion for reduction of the sentence. A Rule 35 motion is a request for leniency which is addressed to the sound discretion of the sentencing court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information

subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 159 P.3d 838 (2007). “An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information.” *Id.* Because Barker presented no new information in support of his Rule 35 motion, review of the sentence by this Court is precluded. For the foregoing reasons, the district court’s denial of Barker’s Rule 35 motion is affirmed.